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In re Application of  
FRAY, Rupert et al.  
Application No.: 09/762,769  
PCT No.: PCT/GB99/02652  
Int. Filing Date: 12 August 1999  
Priority Date: 12 August 1998  
Attorney's Docket No.: PM 276653  
For: EXPRESSION OF BACTERIAL  
SIGNAL MOLECULES IN PLANTS

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicants' "Renewed Submission Under 37 C.F.R. §1.42" filed 04 November 2002.

**BACKGROUND**

On 12 August 1999, applicants filed international application PCT/GB99/02652, which claimed a priority date of 12 August 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 February 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 December 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 12 February 2001.

On 13 February 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a copy of the international application, the international preliminary examination report and a copy of the international search report with copies of the references cited therein.

On 14 March 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors and payment of the surcharge for late filing of oath or declaration were required. This Notification set a one month extendable period for reply.

On 14 August 2001, applicants submitted the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371," which was accompanied by, *inter alia*, a petition/fee for a four month extension of time, a Rule 63 declaration and a power of attorney for patent application and a Rule 63 declaration and power of attorney by legal representative.

On 16 November 2001, the Office dismissed applicants' request for status without prejudice.

On 16 May 2001, applicants filed the submission accompanied by a petition for a four month extension of time and payment of the fee for a four month extension.

On 10 June 2002, the Office mailed Decision On Request refusing applicants' request for status under 37 CFR 1.42.

On 04 November 2002, applicants supplied the instant submission accompanied by a petition for a three month extension of time.

### DISCUSSION

Under 37 CFR 1.42, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir). The declaration is signed by Lesley A. Stewart as legal representative.

The 04 November 2002 declaration of Lesley A. Stewart and the 14 August 2001 submission, taken together, comply with 37 CFR 1.42 and 37 CFR 1.497(a)-(b).

It is noted that applicants have supplied a change of correspondence address. However, the request is signed by an attorney who is not affiliated with Customer Number 00909. Accordingly, the correspondence address will not be changed. See 37 CFR 1.33(a).

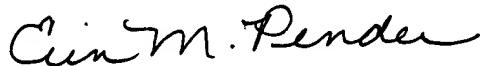
### CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing consistent with this decision. The application has an international filing date of 12 August 1999 under 35 U.S.C. §363 and a date of 04 November 2002 under 35 U.S.C. §371.



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